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**No. 88**

**GOVERNMENT OF SIKKIM  
DEPARTMENT OF FOREST, ENVIRONMENT & WILDLIFE MANAGEMENT  
GANGTOK**

**No. 229/GOS/FEWMD/**

**Dated : 11.03.2015**

**NOTIFICATION**

In exercise of the powers conferred by Section 83 of the Sikkim Forests, Water Courses and Road Reserve (Preservation and Protection) Act, 1988, the State Government hereby makes the following rules, namely:-

|                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|----------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Short title<br/>extent and<br/>commencement</b> | <ol style="list-style-type: none"><li>1. (1) These rules may be called the Sikkim Forests, Water Courses and Road Reserve (Preservation and Protection) Rules, 2015.<br/>(2) They shall extend to the whole of Sikkim.<br/>(3) They shall come into force on the date of their publication in the Official Gazette.</li></ol>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>Definitions</b>                                 | <ol style="list-style-type: none"><li>2. In these rules, unless the context otherwise requires;<ol style="list-style-type: none"><li>a) "Act" means the Sikkim Forests, Water Courses and Road Reserve (Preservation and Protection) Act, 1988;</li><li>b) "Building" means and includes any structure, house, sheds or kacha house, tea stalls, pan shops, Cattle shed, kotera, yaksha, temporary garage, sheds or dhabas of whatever material and in whatever manner constructed which falls under the Road Reserve and also includes doors, stairs, drains attached to any building, walls, railings, advertisement boards, hoardings, pipeline, cable lines, sewer lines temporary structures, electricity posts and line, telephone line etc;</li><li>c) "Divisional Engineer" means an officer of the Sikkim Public Works Department or Urban Development &amp; Housing Department or Rural Management and Development Department having jurisdiction over the road in question;</li><li>d) "Government" means the State Government of Sikkim;</li></ol></li></ol> |

- e) "Department" means the Sikkim Public Works Department or Urban Development & Housing Department or Rural Management and Development Department, Government of Sikkim or any other Department or Agency the Government may authorize;
- f) "Public place" means a road, street, footpath or other place to which the public have right to access and includes any place or taxi stand at which passengers are board and unboard by a public or private vehicle.
- g) "Public property" means road, highway, culvert or any other structure constructed or erected for public use or information;
- h) "Rules" means the "Sikkim Forests, Water Courses and Road Reserve (Preservation and Protection) Rules, 2015;
- i) "Road" means and includes all the State Highways, district roads, approach roads, link roads, roads and other roads constructed and maintained by various departments of the Government or its authorised agencies;
- j) "Road Reserve" means such portion of land acquired by payment of compensation etc. lying within such distance from the centre on either side of any road as may be recorded in government record but shall not include private land or any structure or area within such distance specially notified or earmarked for exclusive use by any other authority.

**Prohibition of certain activities within Road Reserve**

- 3. No person or organization or Government Department shall use any Road Reserve without the written permission of the Divisional Engineer to:
  - (i) Construct any building, install or erect any structure, dig or lay or repair any drain or canal, water pipeline, hang wires or cables, telephone box, display advertisement or other hoardings of any kind, block drains, dump any construction material, debris or muck;
  - (ii) park any vehicle in such a way as to cause discomfort or threat to other vehicles or traffic;
  - (iii) park any defective vehicle for more than 24 hours;
  - (iv) remove traffic signs or signboards erected by the Government;
  - (v) wash or service any vehicle;
  - (vi) discharge any effluent or domestic or other waste;
  - (vii) operate any machinery or ply such vehicle that can damage the road surface;
  - (viii) dismantle any existing road structure or put the road and any of its related structure to domestic use or consumption;
  - (ix) spill oil or burn a fire that is likely to cause damage to the road or any existing infrastructure on it;
  - (x) construct any road bump or speed breaker

Provided that it shall be lawful for any person authorised by the Government to enter and perform such act as may be necessary for carrying out maintenance, repair or management of road or any structure or part thereof or to do any other work connected therewith.

|                                                              |                                                                                                                                                                                                                                                                                                                                                                |
|--------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Divisional Engineer to assess the damage to be caused</b> | 4. The Divisional Engineer, shall on receipt of any application from any person, Organization or Government Department seeking permission as provided under rule 3, make an assessment of the likely damage of the road or any related structure that may be caused by any activity as provided under rule 3, and submit the same to the applicant, in Form I: |
|                                                              | Provided that the Divisional Engineer shall reject any application without assigning any reason if in his opinion the activity is not feasible or is likely to cause permanent damage to public property or is in violation of any law for the time being in force.                                                                                            |
| <b>Applicant to deposit a assessed value</b>                 | 5. The applicant shall deposit the assessed value as mentioned in Form I in such manner, as may be prescribed, to the Divisional Engineer.                                                                                                                                                                                                                     |
| <b>Divisional Engineer to issue permission</b>               | 6. On receipt of the assessed value of money from the applicant the Divisional Engineer shall issue permission to him in Form II.                                                                                                                                                                                                                              |
| <b>Divisional Engineer to restore damage</b>                 | 7. On completion of the activity for which the applicant was granted permission in Form II, the Divisional Engineer shall utilize the money deposited by the applicant to restore the damaged road or any related structure or part thereof.                                                                                                                   |
| <b>Road Reserve land to be Govt. property</b>                | 8. All lands forming part of Road Reserve which vests in the State Government or which does not vest in the State Government but have been acquired for the purpose under these rules or other State Acts or rules shall be deemed to be the property of the State.                                                                                            |
| <b>Encroachment to be evicted under Public Premises Act</b>  | 9. Any encroachment into the Road Reserve by any person shall be deemed to be an unauthorised occupant(s)/occupation and such person shall be evicted in accordance with the provisions contained in the Sikkim Public Premises (Eviction of un-authorised occupants and Rent Recovery) Act, 1980.                                                             |
| <b>Penalty for violation of rules</b>                        | 10. Any person who fails to comply with or contravenes any of the provisions of these rules or any order or direction issued thereunder, shall be punished as provided in the Act and the cost of repair of the damage caused to public property shall be paid by such person.                                                                                 |
| <b>Government to make amendments</b>                         | 11. The Government if it deems it expedient and necessary so to do may, by notification to be published in the Official Gazette, make amendments to the provisions of these rules.                                                                                                                                                                             |

**Dr. Thomas Chandy**  
**PRINCIPAL SECRETARY-cum-PCCF**  
**FOREST, ENV. & W.L. MANAGEMENT DEPARTMENT.**  
**GOVERNMENT OF SIKKIM.**

**FORM – I**  
**(See rule 4 )**

**ASSESSMENT OF REPAIR COST OF DAMAGE TO PUBLIC PROPERTY**

1. Name of the applicant : \_\_\_\_\_
2. Location of proposed activity : \_\_\_\_\_
3. Structure or public property likely to be damaged : \_\_\_\_\_
4. Assessment of repair cost : \_\_\_\_\_

*Note: The applicant is required to pay the repair cost indicated at 4 above by Bank Draft in favour of \_\_\_\_\_*

**DIVISIONAL ENGINEER.**

**FORM II**  
**(See rule 6)**

**PERMISSION TO UNDERTAKE ACTIVITY WITHIN ROAD RESERVE**

Shri/Ms. \_\_\_\_\_ is allowed to \_\_\_\_\_

(name of activity) at \_\_\_\_\_ (name of location). He/She

has to complete the said activity by \_\_\_\_\_ (date of completion).

**DIVISIONAL ENGINEER.**

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